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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/765,172	01/18/2001	John M. Baron	10004909-1	7463
22879 7	590 12/06/2006		EXAMINER	
HEWLETT P	ACKARD COMPA	NGUYEN, JENNIFER T		
P O BOX 2724	100, 3404 E. HARMON	IY ROAD		
INTELLECTUAL PROPERTY ADMINISTRATION			ART UNIT	PAPER NUMBER
FORT COLLINS CO. 80527-2400			2620	

DATE MAILED: 12/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)			
055	09/765,172	BARON, JOHN M.			
Office Action Summary	Examiner	Art Unit			
	Jennifer T. Nguyen	2629			
The MAILING DATE of this communication app Period for Reply	ears on the cover sheet with the c	orrespondence address			
A SHORTENED STATUTORY PERIOD FOR REPLY WHICHEVER IS LONGER, FROM THE MAILING DA - Extensions of time may be available under the provisions of 37 CFR 1.13 after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period w - Failure to reply within the set or extended period for reply will, by statute, Any reply received by the Office later than three months after the mailing earned patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION B6(a). In no event, however, may a reply be tim rill apply and will expire SIX (6) MONTHS from cause the application to become ABANDONEI	L. sely filed the mailing date of this communication. O (35 U.S.C. § 133).			
Status					
1) Responsive to communication(s) filed on 28 Se	eptember 2004.				
2a) ☐ This action is FINAL . 2b) ☑ This	This action is FINAL . 2b)⊠ This action is non-final.				
	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is				
closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.					
Disposition of Claims					
 4) Claim(s) 1-17 is/are pending in the application. 4a) Of the above claim(s) is/are withdraw 5) Claim(s) is/are allowed. 6) Claim(s) 1-7,10-14 and 17 is/are rejected. 7) Claim(s) is/are objected to. 8) Claim(s) 1-17 are subject to restriction and/or expressions. 					
Application Papers					
9) The specification is objected to by the Examiner 10) The drawing(s) filed on is/are: a) access applicant may not request that any objection to the conference of the	epted or b) objected to by the Edrawing(s) be held in abeyance. See on is required if the drawing(s) is obj	e 37 CFR 1.85(a). ected to. See 37 CFR 1.121(d).			
Priority under 35 U.S.C. § 119					
 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f). a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. 					
Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)	4)				
3) Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date 5) Notice of Informal Patent Application 6) Other:					

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1. In view of the Appeal Brief filed on September 8, 2003, the Reply Brief filed on December 23, 2003 and the Decision from the Board of Patent Appeals and Interferences mailed on September 28, 2004, PROSECUTION IS HEREBY REOPENED.

To avoid abandonment of the application, appellant must exercise one of the following two options:

- (1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,
- (2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below.

2. The main issue to be addressed in this application involves the interpretation of the word "periphery" to be used in the context of the claim language. The specification provides for two disclosed embodiments, wherein Figure 2 shows a first embodiment with a switch platform mounted on a frame that surrounds the display screen, and also wherein Figure 5 shows a second embodiment with a switch platform on the edges of the display screen and not mounted on the frame at all. Claim 1 as written is seen to be generic to both disclosed embodiments. However, appellant's arguments in the Appeal

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Brief maintain that claim 1 only reads on the second embodiment of Figure 5 to distinguish over the prior art of record. A problem with this rationale is that further limiting dependent claim 8 is clearly directed to the disclosed first embodiment of Figure 2, and not the disclosed second embodiment. Therefore, confusion exists on the record as to exactly what the applicant is attempting to claim.

3. This application contains claims directed to the following patentably distinct species: Species I as shown in Figure 2 and Species II as shown in Figure 5. The species are independent or distinct because Species I would not require the switch platform on the display screen. Further, Species II would not require the switch platform on the frame. The field of search for Species I is quite different from the field of search for Species II, as the pertinent prior art for Species I relates to keypad or control panel keyboard apparatus whereas Species II relates to touch screen or touch panel devices.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1-7, 10-14 and 17 are generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations

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of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species.

MPEP § 809.02(a).

4. Claims 1-7, 10-14 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As elaborated above, it is unclear from the claim language as to whether the switch platform is on the frame or on the display screen by simply describing the switch platform "about a periphery". As such, it is unclear whether applicant is seeking coverage to read on the embodiment as shown in Figure 2 or seeking coverage to read on the embodiment as shown in Figure 5.

Any inquiry concerning this communication should be directed to Jennifer Nguyen at telephone number (571) 272-7696.

ANDREW B. CHRISTENSEN

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RICHARD HJERPE SUPERVISORY PATENT EXAMINER TECHNOLOGY CENTER 2600 Page 4